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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,474	07/11/2001	Norman Wesley Gimbert	13DV-14215	9339

7590 03/24/2005

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EXAMINER	
ABEL JALIL, NEVEEN	

ART UNIT	PAPER NUMBER
2165	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/903,474	GIMBERT ET AL.	
	Examiner	Art Unit	
	Neveen Abel-Jalil	2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 October 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Remarks

1. The Request for Reconsideration filed on October 28, 2004 has been received and entered. Claims 1-18 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 4, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Marwell et al. (U.S. Pub. No. 2002/0196922 A1).

As to claim 1, Marwell et al. discloses a method for communicating information using a system including a first server system and a second server system, the first server system including a first web server and a first database, the second server system including a second web server and a second database (See Marwell et al. page 7, paragraphs 0082-0084), said method comprising the steps of:

coupling the first web server to the first database, wherein the first web server populates a first web site with data from the first database (See Marwell et al. page 8, paragraph 0092);

coupling the second web server to the second database, wherein the second web server populates a second web site with data from the second database (See Marwell et al. page 9, paragraphs 0115-0116, also see Marwell et al. page 10, paragraphs 0117-0120);

synchronizing the first web site and the second web site to function together as a collaborative web site (See Marwell et al. page 6 , paragraphs 0078-0079);

accessing at least one of the first web site and the second web site via a computer including a browser (See Marwell et al. page 4, paragraph 0050);

selectively accessing the first web site and the data stored in the first server system database via the second server system (See Marwell et al. page 11, column 2, lines 24-40); and

selectively accessing the second web site and the data stored in the second server system database via the first server system (See Marwell et al. page 7, paragraphs 0085-0089).

As to claim 4, Marwell et al. discloses wherein said step of selectively accessing the first web site and the data stored in the first server system further comprises the step of selectively accessing data from the first and second server systems based on individual access privileges (See Marwell et al. page 4, paragraph 0048).

As to claim 13, Marwell et al. discloses a web-based communications system comprising:

a computer comprising a browser; a network coupled to said computer (See Marwell et al. page 3, paragraphs 0034-0038);

a first server system comprising a first web server and a first database, said first web server coupled to said first database and to said network, said first web server configured to

cause to be displayed at said computer a first web site populated with data from said first database (See Marwell et al. page 2, paragraphs 0012-0016, and see Marwell et al. page 2, paragraph 0032); and

a second server system comprising a second web server and a second database, said second web server coupled to said second database and to said network, said second web server configured to cause to be displayed at said computer a second web site populated with data from said second database, said first web site and said second web site synchronized to function together as a collaborative web site, data stored in said first server system database selectively accessible to said browser via said second server system, data stored in said second server system database is selectively accessible to said browser via said first server system.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 2-3, 5-10, 12, 14-16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marwell et al. (U.S. Pub. No. 2002/0196922 A1) in view of Garrow et al. (U.S. Pub. No. 2002/0194160 A1).

As to claim 2, Marwell et al. discloses wherein said step of coupling the first web server to the first database further comprises the step of providing a first server system (See Marwell et al. page 6, paragraphs 0078-0080).

Marwell et al. does not teach hosted by an aircraft engine manufacturer.

Garrow et al. teaches hosted by an aircraft engine manufacturer (See Garrow et al. page 6, paragraph 0058, also see Garrow et al. column 9, lines 47-67, also see Garrow et al. page 8, paragraphs 0068-0071).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Marwell et al. to include hosted by an aircraft engine manufacturer.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Marwell et al. by the teaching of Garrow et al. to include hosted by an aircraft engine manufacturer because providing specific records dealing with one industry allows for efficiency and effective tracking of information thereby reducing business costs associated with the aircraft industry.

As to claim 3, Marwell et al. discloses wherein said step of coupling the second web server to the second database further comprises the step of providing a second server system (See Marwell et al. page 7, paragraphs 0085-0087).

Marwell et al. does not teach hosted by an aircraft manufacturer.

Garrow et al. teaches hosted by a turbine engine manufacturer (See Garrow et al. page 6, paragraph 0058, also see Garrow et al. column 9, lines 47-67, also see Garrow et al. page 8, paragraphs 0068-0071).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Marwell et al. to include hosted by an aircraft engine manufacturer.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Marwell et al. by the teaching of Garrow et al. to include hosted by an aircraft engine manufacturer because providing specific records dealing with one industry allows for efficiency and effective tracking of information thereby reducing business costs associated with the aircraft industry.

As to claim 5, Marwell et al. discloses wherein said step of selectively accessing data stored in the first server system further comprises the step of selectively accessing (See Marwell et al. page 8, paragraphs 0092-0093, and see Marwell et al. page 7, paragraph 0084).

Marwell et al. does not teach at least one of aircraft engine and aircraft data relating to at least one of general information data, plans and schedules data, propulsion systems data, and engineering data.

Garrow et al. teaches at least one of aircraft engine and aircraft data relating to at least one of general information data, plans and schedules data, propulsion systems data, and engineering data (See Garrow et al. column 9, lines 47-67, also see Garrow et al. page 8, paragraphs 0068-0071).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Marwell et al. to include at least one of aircraft engine and aircraft data relating to at least one of general information data, plans and schedules data, propulsion systems data, and engineering data.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Marwell et al. by the teaching of Garrow et al. to include at least one of aircraft engine and aircraft data relating to at least one of general information data, plans and schedules data, propulsion systems data, and engineering data because providing specific records dealing with one industry allows for efficiency and effective tracking of information thereby reducing business costs associated with the aircraft industry.

As to claim 6, Marwell et al. discloses a system for communicating information to a user via a computer including a browser (See Marwell et al. page 7, paragraphs 0082-0084), said system comprising:

a first server system comprising a first web server and a first database, said first web server coupled to said first database and to said network, said first web server configured to cause to be displayed at said computer a first web site populated with data from said first database (See Marwell et al. page 8, paragraph 0092, also see Marwell et al. page 6, paragraphs 0078-0080); and

a second server system comprising a second web server and a second, said second web server coupled to said second database and to said network, said second web server configured to cause to be displayed at said computer a second web site populated with data from said second

database (See Marwell et al. page 9, paragraphs 0115-0116, also see Marwell et al. page 10, paragraphs 0117-0120), said first web site and said second web site synchronized to function together as a collaborative web site (See Marwell et al. page 6 , paragraphs 0078-0079), data stored in said first server system database selectively accessible to said browser via said second server system (See Marwell et al. page 11, column 2, lines 24-40), data stored in said second server system database accessible to the user browser via said first server system (See Marwell et al. page 7, paragraphs 0085-0089).

Marwell et al. does not teach aircraft and aircraft engine information.

Garrow et al. teaches aircraft and aircraft engine information (See Garrow et al. column 9, lines 47-67, also see Garrow et al. page 8, paragraphs 0068-0071).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Marwell et al. to include aircraft and aircraft engine information.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Marwell et al. by the teaching of Garrow et al. to include aircraft and aircraft engine information because providing specific records dealing with one industry allows for efficiency and effective tracking of information thereby reducing business costs associated with the aircraft industry.

As to claim 7, Marwell et al. as modified discloses wherein said data stored in said first server system and said second server system accessible to the user browser based on individual access privileges (See Marwell et al. page 8, paragraphs 0097-0099).

As to claim 8, Marwell et al. as modified discloses said first server system hosted by a turbine engine manufacturer, said second server system hosted by a business partner of the turbine engine manufacturer (See Garrow et al. page 6, paragraph 0058, also see Garrow et al. column 9, lines 47-67, also see Garrow et al. page 8, paragraphs 0068-0071).

As to claims 9, and 10, Marwell et al. as modified discloses wherein at least one of said first database and said second database includes aircraft engine data relating to at least one of general information data, propulsion systems data, and engineering (See Garrow et al. column 9, lines 47-67, also see Garrow et al. page 8, paragraphs 0068-0071).

As to claim 12, Marwell et al. discloses a database structure configured to be protected from access by unauthorized individuals (See Marwell et al. page 4, paragraph 0048), said database structure comprising a first database and a second database, said first database coupled to a first server system, said second database coupled to a second server system (See Marwell et al. page 11, column 2, lines 19-47, also see Marwell et al. figure 5, shows more than one server system), at least one of said first database and said second database including information relating to at least one of general information, said first database linked to a first web site configured to be populated with data from said first database, said second database linked to a second web site configured to be populated from said second database, said first web site and said second web site synchronized to function together as a collaborative web site (See Marwell et al. page 12, column 1, lines 1-36, and see Marwell et al. page 11, column 2, lines 1-47,

wherein "collaborative web site" reads on "branded").

Marwell et al. does not teach hosted by an aircraft engine manufacturer; hosted by a business partner of the aircraft engine manufacturer; and at least one of plans and schedules, propulsion systems, and engineering.

Garrow et al. teaches hosted by an aircraft engine manufacturer; hosted by a business partner of the aircraft engine manufacturer (See Garrow et al. page 6, paragraph 0058, also see Garrow et al. column 9, lines 47-67, also see Garrow et al. page 8, paragraphs 0068-0071);

and at least one of plans and schedules, propulsion systems, and engineering (See Garrow et al. column 9, lines 47-67, also see Garrow et al. page 8, paragraphs 0068-0071).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Marwell et al. to include hosted by an aircraft engine manufacturer; hosted by a business partner of the aircraft engine manufacturer; plans and schedules, propulsion systems, and engineering.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Marwell et al. by the teaching of Garrow et al. to include hosted by an aircraft engine manufacturer; hosted by a business partner of the aircraft engine manufacturer; and at least one of plans and schedules, propulsion systems, and engineering because providing specific records dealing with one industry allows for efficiency and effective tracking of information thereby reducing business costs associated with the aircraft industry.

As to claim 14, Marwell et al. discloses said first server system, said second server system (See Marwell et al. page 11, column 2, lines 19-47, also see Marwell et al. figure 5, shows more than one server system).

Marwell et al. does not teach hosted by a turbine engine manufacturer; and hosted by a business partner of the turbine engine manufacturer.

Garrow et al. teaches hosted by a turbine engine manufacturer; and hosted by a business partner of the turbine engine manufacturer (See Garrow et al. page 6, paragraph 0058, also see Garrow et al. column 9, lines 47-67, also see Garrow et al. page 8, paragraphs 0068-0071, wherein "turbine engine" reads on "jet engine").

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Marwell et al. to include hosted by an aircraft engine manufacturer; hosted by a business partner of the aircraft engine manufacturer.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Marwell et al. by the teaching of Garrow et al. to include hosted by an aircraft engine manufacturer; hosted by a business partner of the aircraft engine manufacturer because providing specific records dealing with one industry allows for efficiency and effective tracking of information thereby reducing business costs associated with the aircraft industry.

As to claim 15, Marwell et al. as modified discloses wherein said data stored in said first server system and said second server system accessible to the user browser based on based on individual access privileges (See Marwell et al. page 4, paragraph 0048).

As to claims 16, and 18, Marwell et al. as modified discloses wherein said browser configured to selectively display aircraft engine data relating to at least one of general information data, plans and schedules data, propulsion systems data, and engineering data (See Garrow et al. column 9, lines 47-67, also see Garrow et al. page 8, paragraphs 0068-0071).

6. Claims 11, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marwell et al. (U.S. Pub. 2002/0196922 A1) in view of Garrow et al. (U.S. Pub. No. 2002/0194160 A1) as applied to claims 2-3, 5-10, 12, 14-16, and 18 above, and further in view of Glass et al. (U.S. Patent No. 6,278,965).

As to claim 11 Marwell et al. discloses said first database and said second database.

Marwell et al. as modified still does not teach wherein at least one of said database maintains a record of navigation changes.

Glass et al. teaches wherein at least one of said first database and said second database maintains a record of navigation changes (See column 5, lines 34-51, wherein "maintains a record" reads on "flight history", also see column 22, lines 38-63, wherein "navigational changes" reads on "flight plans").

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Marwell et al. as modified to include wherein at least one of said first database and said second database maintains a record of navigation changes.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Marwell et al. as modified by the teaching of Glass et al. to include wherein at least one of said first database and said second database maintains a record of navigation changes because the partnership will reduce business costs by introducing efficient information retrieval and processing.

As to claim 17, Marwell et al. as modified still does not teach wherein said browser configured to selectively display an historical log relating to navigational changes to said user interface.

Glass et al. teaches wherein said browser configured to selectively display an historical log (See column 5, lines 41-48) relating to navigational changes (See column 5, lines 34-51, wherein "maintains a record" reads on "flight history", also see column 22, lines 38-63, wherein "navigational changes" reads on "flight plans") to said user interface (See column 11, lines 12-22).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Marwell et al. as modified to include wherein said browser configured to selectively display an historical log relating to navigational changes to said user interface.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Marwell et al. as modified by the teaching of Glass et al. to include wherein said browser configured to selectively display an historical log relating to

navigational changes to said user interface because the partnership will reduce business costs by introducing efficient information retrieval and processing.

Response to Arguments

7. Applicant's arguments filed on October 28, 2004 have been fully considered but they are not persuasive.

In response to applicant's argument on pages 3, 6, 7 that "Marwell et al. does not describe nor suggest a method for communicating aircraft and aircraft engine information" is acknowledged but it is not deemed to be persuasive.

The Examiner maintains that the combination of Marwell et al. with the teachings of Garrow et al. indeed teach aircraft and aircraft engine information as disclosed in the office action. Garrow et al. specifically deals with all related aircraft industry records see page 6, paragraph 0058, and page 8, paragraphs 0068-0071, as well as column 9, lines 47-67.

The Examiner would like to state in a product by process claims, the type of data being stored or retrieved from a database does not constitute novelty instead it's the process and methodology of the data storage that is being claimed. All data is just data, the novelty is in the process of using the data not the different data that can be used.

In response to applicant's argument on pages 3, 6, 7, 8, and 9 that "Marwell et al. does not describe nor suggest a method for communicating aircraft and aircraft engine information that includes selectively accessing a first web site and data stored in a first server system

database via a second server system, and selectively accessing a second web site and data stored in a second server system database via a first server system, wherein both server web sites act collaboratively together" is acknowledged but it is not deemed to be persuasive.

The Examiner points to page 11, column 2, lines 58-67, and page 12, column 1, lines 1-14, wherein Marwell et al. discloses a second database coupled to the web server, the web server directly updating the second database in accordance with the received personal contact update data, the first database being synchronized with the second database.
On page 7, paragraphs 0083-0084, Marwell et al. clearly teaches both server web sites act collaboratively together via synchronization.

Marwell et al. has been modified by the teachings of Garrow et al. to disclose communicating aircraft and aircraft engine information as stated in the office action. Therefore, the combination of the cited references teaches the claimed limitation.

In response to applicant's argument on pages 3, 7-10, and 14 that "Marwell et al. does not describe nor suggest synchronizing a first web site and a second web site to function as collaborative web site" is acknowledged but it is not deemed to be persuasive.

The Examiner maintains that Marwell et al. indeed teaches the synchronization between two databases and two web sites on page 7, paragraphs 0083-0084. The recitation of "to function as collaborative web site" is merely the purpose behind the process claimed and is considered intended use recitation.

In response to applicant's argument that "the cited reference alone or in combination does not teach to function as a collaborative web site", a recitation of the intended use of the claimed

invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

The Examiner does not see how synchronizing records between a server and a hand-held computer, is in contrast to what is being claimed by the applicant, instead its an affirmation that indeed the combined cited reference must function together in harmony to maintain up-to-date and accurate information of all related web sites.

In response to applicant's argument on pages 3, 6-9, and 13 "Marwell et al. does not describe nor suggest a web-based communication system" is acknowledged but it is not deemed to be persuasive.

The Examiner maintains that Marwell et al. clearly discloses display screens presented by web server on page 9, paragraph 0114, and on page 7, paragraph 0083, a web server is disclosed. It is well known in the database art that users communicate across the web using a web browser and it is disclosed in Marwell et al. page 7, paragraph 0081 as such.

In response to applicant's argument on pages 3, 6, 7, and 8 "neither Marwell et al. nor Garrow et al., considered alone or in combination, describe nor suggest populating a first web site from the first data base" is acknowledged but it is not deemed to be persuasive.

The Examiner maintains that Marwell et al. has been modified by the teachings of Garrow et al. to teach that aircraft related information is being stored in a database, accessed, and later on populate a web site. Specifically, Marwell et al. page 2, paragraph 0012 discloses system for populating and maintaining a list of personal contact data for a user of the system is provided, in which the system has at least one user terminal. A web server is coupled to the user terminal through a communication network such that the web server receives personal contact update data from the user terminal. A first database is coupled to the web server such that the first database stores the list of personal contact data. The list of personal contact data stored in the first database is updated with the personal contact update data received by the web server. Marwell et al. continues to teach the claimed limitation on page 10, paragraphs 0117-0118.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner is establishing motivation in obviousness in the knowledge generally available to one of ordinary skill in the art, to modify the invention of Marwell et al. with the teachings of Garrow et al. and further with the teachings of Glass et al., as explained in the office action.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The Examiner has found the motivation to combine prior art references exist in the nature of the problem to be solved (Ruiz at 1276, 69 USPQ2d at 1690) or the knowledge of one of ordinary skill in the art (National Steel Car v. Canadian Pacific Railway Ltd., 357 F.3d 1319, 1338, 69 USPQ2d 1641, 1656 (Fed. Cir. 2004)).

In response to applicant's argument that "it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the proper art so that the claimed invention is rendered obviously" is acknowledged but it is not deemed to be persuasive.

The Examiner maintains the combination of the cited reference to be prior stating from the MPEP that in cases where there exists a sound rejection on the basis of prior art, which discloses the "heart" of the invention (as distinguished from prior art which merely meets the terms of the claims), secondary rejections on minor technical grounds are ordinarily made and are proper.

In response to applicant's argument that "The cited art alone or in combination teaches away from the current invention" is respectfully considered but is not deemed to be persuasive.

The Examiner's response is that The cited art clearly states the limitation in the reference cited and whether The cited art uses the technology in the same manner as the applicant or not is not the intention here but instead the fact that The cited art teaches such method to exist in itself reads on the limitation of the claim.

"Arguments that the alleged anticipatory prior art is nonanalogous art' or teaches away from the invention' or is not recognized as solving the problem solved by the claimed invention, [are] not germane' to a rejection under section 102." Twin Disc, Inc. v. United States, 231 USPQ 417, 424 (Cl. Ct. 1986) (quoting In re Self, 671 F.2d 1344, 213 USPQ 1, 7 (CCPA 1982)). >See also State Contracting & Eng ' g Corp. v. Condotte America, Inc., 346 F.3d 1057, 1068, 68 USPQ2d 1481, 1488 (Fed. Cir. 2003) (The question of whether a reference is analogous art is not relevant to whether that reference anticipates. A reference may be directed to an entirely different problem than the one addressed by the inventor, or may be from an entirely different field of endeavor than that of the claimed invention, yet the reference is still anticipatory if it explicitly or inherently discloses every limitation recited in the claims.).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period

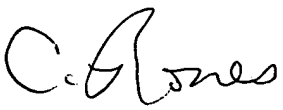
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5: 30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 571-272-4038. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Neveen Abel-Jalil
March 20, 2005



CHARLES RONES
PRIMARY EXAMINER